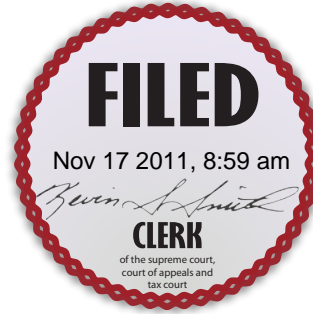


Pursuant to Ind.Appellate Rule 65(D), this Memorandum Decision shall not be regarded as precedent or cited before any court except for the purpose of establishing the defense of res judicata, collateral estoppel, or the law of the case.



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**IN THE
COURT OF APPEALS OF INDIANA**

RALPH GOODMAN,
Appellant-Defendant,

vs.

STATE OF INDIANA,
Appellee-Plaintiff.

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No. 49A02-1105-CR-435

APPEAL FROM THE MARION SUPERIOR COURT
The Honorable Linda E. Brown, Judge
Cause No. 49F10-1103-CM-017221

November 17, 2011

MEMORANDUM DECISION - NOT FOR PUBLICATION

VAIDIK, Judge

Case Summary

Ralph Goodman appeals his conviction for Class A misdemeanor invasion of privacy. He contends there is insufficient evidence to support his conviction because the trial court erroneously took judicial notice of a No Contact Order that was necessary to prove an element of the crime. The trial court did not err, and the elements of invasion of privacy were sufficiently proven by the State. We therefore affirm Goodman's conviction.

Facts and Procedural History

On March 2, 2011, after an alleged battery, the court entered a No Contact Order upon Goodman's release from custody on bail of personal recognizance, preventing him from contacting Tammy Davis. On March 12, 2011, Indianapolis Metropolitan Police Department Officer Matthew Coffing responded to a domestic disturbance at Davis's apartment. When Coffing knocked on the door, he saw both Davis and Goodman inside. Coffing learned that there was a No Contact Order in place and arrested Goodman, who was charged with Class A misdemeanor invasion of privacy.

A bench trial was held on April 20, 2011. The State asked the trial court to take judicial notice of the No Contact Order, and Goodman objected on grounds of hearsay and lack of foundation. Tr. p. 15-16. The trial court exercised judicial notice of the Order over Goodman's objections. Goodman was found guilty and sentenced to 365 days with 285 days suspended to probation and 80 days credit for time served. *Id.* at 23.

Goodman now appeals.

Discussion and Decision

Goodman contends that the evidence is insufficient to support his conviction for Class A misdemeanor invasion of privacy. Specifically, he argues that the trial court erred in taking judicial notice of a previous No Contact Order issued by the court.

Our standard of review with regard to sufficiency claims is well settled. In reviewing a sufficiency of the evidence claim, this Court does not reweigh the evidence or judge the credibility of the witnesses. *Bond v. State*, 923 N.E.2d 773, 781 (Ind. Ct. App. 2010), *reh'g denied, trans. denied*. We consider only the evidence most favorable to the judgment and the reasonable inferences draw therefrom and affirm if the evidence and those inferences constitute substantial evidence of probative value to support the judgment. *Id.* Reversal is appropriate only when a reasonable trier of fact would not be able to form inferences as to each material element of the offense. *Id.*

Class A misdemeanor invasion of privacy occurs when a person “knowingly or intentionally violates: . . . (5) a no contact order issued as a condition of pretrial release, including release on bail or personal recognizance” Ind. Code § 35-46-1-15.1. Goodman argues that his conviction cannot stand because the trial court erred in taking judicial notice of the No Contact Order, which was necessary to prove an essential element of invasion of privacy. We disagree.

Effective January 1, 2010, a trial court may take judicial notice of “records of a court of this state” under Indiana Evidence Rule 201(b)(5). The records need not be from the court hearing the present action; records of any Indiana court are appropriate for judicial notice. *Mitchell v. State*, 946 N.E.2d 640, 644 (Ind. Ct. App. 2011), *reh'g*

denied, trans. denied. The No Contact Order in this case was created by the State, Tr. p. 17, and issued after Goodman was released from custody on an alleged battery. Therefore, it falls squarely under the purview of Evidence Rule 201(b)(5), and the trial court did not err in taking judicial notice of it. As a result of the proper judicial notice of the No Contact Order, the evidence is sufficient to satisfy all elements of Class A misdemeanor invasion of privacy.

Goodman also argues that *Brown v. Jones* prevents the trial court from taking judicial notice of the No Contact Order. 804 N.E.2d 1197 (Ind. Ct. App. 2004), *trans. denied*. However, as Goodman himself quotes, *Brown* says that “judicial notice should be limited to the fact of the record’s existence, rather than to any facts found or alleged within the record of another case.” *Id.* at 1202. The existence of the No Contact Order is exactly what the trial court was taking judicial notice of in this case. As a result, Goodman’s argument is not persuasive. We therefore affirm Goodman’s conviction.

Affirmed.

FRIEDLANDER, J., and DARDEN, J., concur.